IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 21.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.1389 of 2000

1.The Superintending Engineer/TEDC/
TNEB South/Trichy-2.

2.The Executive Engineer/O&M/
TNEB/Trichy-20.

3.The Assistant Executive Engineer/O&M/
TNEB/Trichy-20.

4.The Junior Engineer/O&M/
TNEB/Trichy-20. ... Appellants

Vs.

Mc Adams Chemical Manufacturing
Company, rep. by its Managing
Partner Balagangadharan .. Respondent

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 13.10.1999 made in W.P.No.3643 of 1992 presented under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondents culminating in the impugned order of the Second respondent order No.Lr.No.EE/E/AAO/RBI/AS11/BA3/D.025/92 dated 14.02.92 and quash.

For Appellants : Mr.R.Subbiah(TNEB)

For respondent : No appearance

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The writ appeal is directed against the order dated 13.10.1999 passed in W.P.No.3643 of 1992, in and by which, the learned single Judge, after directing the Electricity Board to refund a sum of Rs.1,08,785/- with interest at 12% per annum from 16.03.1996 till the payment made by the petitioner, has disposed the writ petition.

2. The Superintending Engineer/TEDC/TNEB South/Trichy-2, and three others have filed the above writ appeal. Though notice was duly served on the respondent/writ petitioner, they have not chosen to contest the above appeal by engaging a counsel.

3. We have heard the learned counsel appearing for the appellants.

4. We have verified the letter of the Executive Engineer/ East, Revenue Branch-I, Trichy-20, dated 14.02.1992, and the impugned order of the learned single Judge, dated 13.10.1999. A perusal of the letter of the Executive Engineer/East, Revenue Branch-I, Trichy-20, dated 14.02.1992, shows that the Executive Engineer, after finding that the meter in question was defective from the period from 11.09.1990 to 12.11.1991 and after revising the assessment, has directed the writ petitioner to pay Rs.2,17,570/- towards short assessment, to the Junior Engineer/O&M/Crawford, within 30 days from the date of receipt of the said letter. In view of the order/direction to be issued here under, we resist from going into the merits of the letter dated 14.02.1992.

5. Learned counsel appearing for the appellants-Electricity Board brought to our notice that though the respondent herein/writ petitioner themselves had submitted a reply/explanation on 03.03.1992, without waiting for final order, they have rushed to this Court and filed the writ petition. The letter dated 14.02.1992 is not a show cause notice as claimed by the learned counsel appearing for the appellants. The penultimate paragraph of the said letter amply shows that after assessment, there was a direction to the petitioner to pay a sum of Rs.2,17,570/-. In a matter like this, though the Electricity Board and their Officers are entitled to proceed, if there is revised assessment or recovery of difference, if any, it is but proper to give an

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opportunity to the consumer. In such circumstances, since we treat the letter of the Executive Engineer/East, Revenue Branch-I, Trichy-20, dated 14.02.1992 as a provisional order/conclusion, the Executive Engineer/East, Revenue Branch-I, Trichy-20, is permitted to send a copy of the said letter to the respondent herein/writ petitioner within a period of two weeks from the date of receipt of a copy of this order. The respondent/writ petitioner is granted further two weeks time for submission of fresh reply/explanation, if any. Thereafter, the Executive Engineer/East, Revenue Branch-I, Trichy-20, shall pass a final order considering the objection/explanation to be made, by the respondent/writ petitioner. It is made clear that if there is no reply/explanation by the respondent/writ petitioner within the time mentioned above, the Executive Engineer/East, Revenue Branch-I, Trichy-20, is free to pass a final order and proceed, in accordance with law. The order of the learned single Judge dated 13.10.1999 is modified and the writ appeal is ordered to this extent. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

To

1.The Superintending Engineer/
TEDC/TNEB South/Trichy-2.

2.The Executive Engineer/O&M/
TNEB/Trichy-20.

3.The Assistant Executive Engineer/
O&M/TNEB/Trichy-20.

4.The Junior Engineer/O&M/
TNEB/Trichy-20.

1 cc To Mr.R.Subbiah, Advocate, SR.57003.

W.A.No.1389 of 2000

NA(CO)
RVL 04.12.2006

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